

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

MCKENNA DUFFY and MICHAEL BRETT,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

YARDI SYSTEMS, INC., BRIDGE
PROPERTY MANAGEMENT, L.C.,
CALIBRATE PROPERTY MANAGEMENT,
LLC, DALTON MANAGEMENT, INC.,
HNN ASSOCIATES, LLC, LEFEVER
MATTSON PROPERTY MANAGEMENT,
MANCO ABBOTT, INC., MORGUARD
MANAGEMENT COMPANY, INC.; R.D.
MERRILL REAL ESTATE HOLDINGS,
LLC, SUMMIT MANAGEMENT
SERVICES, INC., and CREEKWOOD
PROPERTY CORPORATION,

Defendants.

Case No. 2:23-cv-01391-RSL

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION FOR
APPOINTMENT OF HAGENS BERMAN
SOBOL SHAPIRO LLP AS INTERIM
LEAD CLASS COUNSEL**

**NOTE ON MOTION CALENDAR:
MARCH 15, 2024**

Plaintiffs' counsel's motion for appointment as interim lead class counsel (the "Motion") (Dkt. No. 146) is unnecessary.

Rule 23(g)(3) contemplates the appointment of interim class counsel to protect the interests of a putative class, most commonly where "there are a number of overlapping, duplicative, or competing suits in other courts, and some or all of those suits may be

consolidated.” Federal Judicial Center, *Manual for Complex Litig.* § 21.11 (4th ed. 2004). Plaintiffs reference a “substantially similar” action filed in California state court raising state-law claims, but they cannot cite any “overlapping, duplicative, or competing suits” in *federal* court that may be consolidated with this action. Motion at 3 n.3; *see also Mach, et al. v. Yardi Systems, Inc., et al.*, No. 24–CV–063117, Complaint (Cal. Super. Ct. Feb. 8, 2023). The putative class in this case does not require the protection of interim class counsel. *Manual for Complex Litig.* § 21.11 (noting that if “the lawyer who filed the suit is likely to be the only lawyer seeking appointment as counsel, appointing interim class counsel may be unnecessary”); *see also Parrish v. Natl. Football League Players Inc.*, 2007 WL 1624601, at *9 (N.D. Cal. June 4, 2007) (denying motion where there was “a single action and a single law firm who has moved to be appointed as interim counsel”; no “multiple complaints, nor . . . a gaggle of law firms jockeying to be appointed class counsel”; and “[n]o consolidation with other actions . . . on the horizon”).

Other courts have rejected attempts by Plaintiffs’ counsel to stake their claim in a particular action before there is a demonstrable need to do so. *See, e.g., Gibson v. MGM Resorts Intl.*, 2023 WL 4455726, at *2 (D. Nev. July 11, 2023) (finding appointment of interim class counsel unnecessary where there “are no competing lawsuits or firms which create the need for the Court to clarify the responsibility for protecting the interests of the class” and noting that “responsibility already lies with Plaintiffs’ counsel even absent appointment as interim class counsel”); *In re Seagate Tech. LLC Litig.*, 2016 WL 3401989, at *3 (N.D. Cal. June 21, 2016) (denying motion for appointment as interim class counsel as unnecessary absent competing firms or lawsuits pending in federal court).

RESPECTFULLY SUBMITTED,

Date: March 11, 2024

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DEFS’ RESP. TO MOTION TO
APPOINT INTERIM CLASS COUNSEL - 2
(Case No. 2:23–cv–01391-RSL)

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CERTIFICATION

I certify that this Response contains 377 words, in compliance with the Local Civil Rules.

By: /s/ Matthew Carvalho